

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON NATURAL RESOURCES

Call to Order: By **VICE CHAIRMAN DALE MAHLUM**, on February 14, 2001 at 3:25 P.M., in Room 317-C Capitol.

ROLL CALL

Members Present:

Sen. William Crismore, Chairman (R)
Sen. Dale Mahlum, Vice Chairman (R)
Sen. Vicki Cocchiarella (D)
Sen. Mack Cole (R)
Sen. Lorents Grosfield (R)
Sen. Bea McCarthy (D)
Sen. Ken Miller (R)
Sen. Glenn Roush (D)
Sen. Bill Tash (R)
Sen. Mike Taylor (R)
Sen. Ken Toole (D)

Members Excused: None.

Members Absent: None.

Staff Present: Melissa Rasmussen, Committee Secretary
Mary Vandebosch, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 354, SJ 3, 2/5/01
SJ 13, 2/9/01
Executive Action: SJ 3, SB 364 (2), SB 378 (2),
SJ 13, SB 379

HEARING ON SB 354

Sponsor: SENATOR WILLIAM CRISMORE, SD 41, Libby

Proponents: Loren Frazier, MT School Board
Cary Hegreberg, MT Wood Products Association

Patrick Heffernan, MT Logging Association (MLA)
Roy Andes, Mon Trust
Ronald Buentemeier, F.N. Stoltze Land & Labor Co.
Frank Gilmore, MT Tech of UM
Steve Hulbert, Western Montana College-UM
Ed Regan, RY Timber
Jerry Furtney, Self
Gordan Sanders, Pyramid Mountain Lumber

Opponents: Rich Harris, Self
Jane Adams, Self
Arlene Montgomery, Friends of the Wild Swan
Neal Brown, Flathead Audubon Society
Linda Winnie, Flathead Audubon Society
Joe Lamson, OPI
Janet Ellis, Self
Steve Thompson, Self
L.R. McEvoy, Self
Jeff Barber, MWF, CFC, MCAFS
Drusha Mayhue, MT Sierra Club
Anne Hedges, MEIC
Steve Gilbert, Self
Malcolm Thompson, RBM Lumber Inc.
John Wilson, MT Trout Unlimited

Informational: Bud Clinch, DNRC

Opening Statement by Sponsor:

SENATOR WILLIAM CRISMORE, SD 41, Libby, opened the hearing by stressing the importance of SB 354. He told the committee that this bill is important because of the amount of money it will generate for the schools. He stated that this is a fairness bill because it manages state school trust lands in a way that generates revenue.

Proponents' Testimony:

Loren Frazier, MT School Board, told the committee that if the state is locking up trust lands that are designated to benefit schools and universities, there needs to be compensation for the use of those lands if the use is altered from it's original intent. He informed the committee that the trust lands generated 43 million dollars this year.

Cary Hegreberg, MT Wood Products Association, gave the committee a brief summery of how the state trust lands were acquired. When Montana was granted statehood approximately 5 million acres of

land were granted to the state for the support of public schools and institutions of higher learning. This mandate is affirmed by the legislature and state constitution. Each section of state trust land has a specific designated beneficiary, and each beneficiary has a constitutional right to generate a sustained income from that land. **Mr. Hegreberg** handed out an opinion by Attorney General Robert Woodahl regarding state trust lands **EXHIBIT(nas37a01)**. The opinion clears up whether or not there should be compensation associated with state trust lands, he handed out a supreme court case, *Department of State Lands v. Pettibone* **EXHIBIT(nas37a02)** to further his point. He cited the 13 million acres that have been set aside by the federal government as natural forests, and commented on the designated roadless areas. He stated that all the bill is asking for is a chance to manage the 600,000 acres of state trust lands to produce revenue for schools. He pointed out that there is less state trust land, as compared to what was just locked up by the Clinton Administration in the roadless initiative. The bill is about sharing resources. He commented that the environmentalists like to talk about the appetite of the timber industry, but said that appetite is as large as the consumer demand. He asked when will the conservation appetite be satisfied. The land needs to be used for what it was designated for.

Patrick Heffernan, MLA, charged that the state trust land is vital to our immediate needs because of the retirement of the national forests timber sales program. He added that there is a need for affordable stumpage; the DNRC has done an excellent job of meeting the sustained yield every year. He brought up the issue is Old Growth, and commented on the pressure to retire some of the state trust lands as management under the Old Growth initiative. He told the committee that the Old Growth plan was put into place as part of the state long range management plan of Old Growth. He commented that when the forest planning documents were reviewed in the mid-nineties there were questions about biodiversity provisions and how it would fit into the trust land mandate. He advised that it is not a good idea to retire lands for management. He handed out a letter from **Tom Schultz, Chief, Forest Management Bureau**, **EXHIBIT(nas37a03)** that discusses the designation of state trust lands. He directed the attention of the committee to **EXHIBIT(nas37a04)** the growth of trees. **Mr. Heffernan** charged that when the trees are harvested at the culmination of mean annual increment (CMAI) that is when the full value of the timber will be generated. If management is deferred past the CMAI, the opportunity to grow new vigorous trees is lost. This bill will provide the mechanism to make sure that the lands set aside are computed to achieve the full benefit of the timber.

Roy Andes, Mon Trust, spoke in favor of the bill and handed in written testimony **EXHIBIT(nas37a05)**.

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Ronald Buentemeier, F.N. Stoltze Land and Labor Co., urged the committee to look at the growth of the forest. He gave a personal example of private land that was harvested in 1941. The reduction of trees made the remaining trees grow faster. He informed the committee that he has had 38 years of forestry experience, and showed examples of different types of trees and their ages. He expressed the need for a solid definition of Old Growth; currently there is confusion about size or age of a tree constituting Old Growth. He argued that the state trust lands need to be harvested in a certain way. The bill ensures that we have good management of our state trust lands. He offered an explanation for the Douglas-Fir example **EXHIBIT(nas37a06)**.

Frank Gilmore, MT Tech of UM, stated that the trust lands need to be managed by the DNRC in a way that brings maximum benefit to the beneficiaries. He noted that MT Tech makes a total of \$322,000 per year off of their state trust lands, approximately \$6 per acre. He alleged that the revenue is low because DNRC does not have the ability to manage the state trust lands.

Steve Hulbert, Western Montana College-UM, told the committee that WMC-UM is a beneficiary of state trust land, and urged the committee to pass SB 354.

Ed Regan, RY Timber, spoke in favor of the bill and submitted written testimony **EXHIBIT(nas37a07)**.

Jerry Furtney, Self, spoke in favor of the bill and submitted written testimony **EXHIBIT(nas37a08)**.

Gordan Sanders, Pyramid Mountain Timber, expressed his support for the bill and commented on the 10% of lumber set aside by the DNRC in the Swan.

John Hossack, Self, submitted written testimony in support of the bill **EXHIBIT(nas37a09)**.

Doug Hanson, Self, submitted written testimony in support of the bill **EXHIBIT(nas37a10)**.

Opponents' Testimony:

Rich Harris, Self, reminded the committee that state trust lands are not only for the beneficiary, but for future generations as well. He charged that SB 354 is a direct attack on the State Land Forest Management Plan, that he helped author. He stated that there is a misconception about what the land board is doing; the document is intended to work 100% for the school trust lands. There is a provision in the document for management of the Old Growth, however, Old Growth would not maximize revenue for the beneficiaries. The document provides a compromise for current and future beneficiaries. He held that there are complex relationships that go into producing trees, and we cannot even understand the ecological impacts trees possess. Scientist cannot tell exactly what is going to happen years from now. Since the adoption of the land board document the state has met it's timber target every year, timber is being lost because of the retention of certain amounts of Old Growth.

Jane Adams, Self, declared that the DNRC's Old Growth management is under intense scrutiny. She stated that forests are more than just trees, they provide for different types of habitats. Old Growth forests form basic, healthy functioning systems. The difficulty lies, with putting a dollar amount on Old Growth forests. She added that the misunderstanding of Old Growth is similar to the misunderstanding of the human body 150 years ago. She told the committee that they need to preserve Old Growth not only for our schools, but for future generations.

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Arlene Montgomery, Friends of the Wild Swan, told the committee that passing this bill would limit the abilities of the DNRC to administer the state trust lands. She offered for example, the state of Colorado who set aside lands as a form of stewardship. She argued that income is not the only consideration for state trust lands. The Montana Supreme Court stated that maximizing the revenue of state trust lands does not exempt the DNRC or any agency from complying with applicable environmental laws. Passing this bill would constrain the state from complying with not only state laws, but federal. It also conflicts with the state forest management plan. Trustees must consider future generations when managing state trust lands. The bill opens Pandora's Box by giving DNRC and the land board less flexibility when managing state trust lands.

Neil Brown, Flathead Audubon, spoke in opposition to the bill and submitted a packet of information **EXHIBIT(nas37a11)**.

Linda Witty, Flathead Audubon, stated that she was afraid that the passage of this bill would put Owen Sourwine Natural Area out

of business. She passed around pictures of the natural area for the committee to see **EXHIBIT(nas37a12)**. She suggested that the natural area's primary use is educational, the desire is to bring school kids out to the natural area for field trips. She questioned the definition of fair market value for natural lands, and stated that it threatens the lessee because you cannot determine an appropriate lease price. Currently, determining an appropriate lease amount is delaying the ability of the natural area to use the land for educational purposes.

Joe Lamson, OPI, spoke for **Superintendent of Public Instruction Linda Macullick**, argued that the amount of money going to the beneficiaries would be doubled if the law was changed back to it's original form. He stated that his greatest concern was the definition of full market value. He feared that this bill was setting up fair market value as the most important goal of the trust. He hypothesized that this would lead to more lawsuits and delay timber sales. He cautioned that current users of the trust should not put a lot of pressure on individuals with grazing rights by seeking full market value. He stated that there is a responsibility to provide for timber sales; he conceded that it is a small, but important part of the picture.

Janet Ellis, MT Audubon, spoke in opposition to the bill and handed out a document that listed all of the parks, fishing access sites and wildlife management areas on school trust lands **EXHIBIT(nas37a13)**.

Steve Thompson, Self, spoke in opposition to the bill and noted that the bill would remove the flexibility to manage watersheds effectively.

L.R. McEvoy, Self, stated that if the desire to the bill is to achieve full market value on state trust lands it is important to look at a reasonable lease. He suggested looking at the lease on crop lands.

Jeff Barber, MWF, CFC, MCAFS, spoke in opposition to the bill.

Drusha Mayhue, MT Sierra Club, spoke in opposition to the bill and submitted written testimony **EXHIBIT(nas37a14)**.

Anne Hedges, MEIC, spoke in opposition to the bill and asked the committee to pay special attention to the first whereas.

Steve Gilbert, Self, spoke in opposition to the bill.

Malcolm Thompson, RBM Lumber, stated that the bill limits discussion in the realm of forest industry.

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John Wilson, MT Trout Unlimited, spoke in opposition to the bill.

Informational Testimony:

Bud Clinch, DNRC, informed the committee that the bill does not change existing management of the DNRC. The way that the DNRC manages the state trust lands is through fair market value. The bill puts into statute the existing law that has guided the DNRC's management of state trust lands. He handed out a document that lists the fundamental trust land cases **EXHIBIT(nas37a15)**. He told the committee that fair market value came with state lands not with the bill, in order to change fair market value on school trust lands you would have to amend the Montana Constitution. **Mr. Clinch** argued that there is increased pressure on state trust lands to provide for societal needs and beliefs at something less than full market value, there is a constant assault on state trust lands. He handed out a recent position paper on this issue drafted by the Western States Land Commissioner's Association **EXHIBIT(nas37a16)**. He noted that the states constitution binds us to the full market value. He addressed the issue of natural areas **EXHIBIT(nas37a17)**, and stated that Commissioner Berry had issues acting upon his responsibilities as commissioner, to generate revenue and uphold the Natural Areas Act of 1974. He read from the act that stated the state had a responsibility to receive revenue from it's school trust lands. He informed the committee that the Owen Sourwine is the only designated natural area in the state. He stated that it was unfortunate that last year during the reappraisal process, the land was calculated as highly valuable. The DNRC applied their standard approach of 5% of the appraised value as the amount to assess a lessee for that land. He told the committee that shortly after the Audubon received their bill for \$22,000, Janet Ellis contacted **Mr. Clinch**. He said that in good faith they went back to the books and found a way to craft a new agreement that took into consideration the properties restricted land due to climate conditions. As a result a ten year license was crafted for the Audubon's Natural Areas Act for an annual rental rate of \$652, the rate is consistent with the amount the Audubon has paid in the past. He exclaimed that the forest management plan is a guide for forest decisions. However, the contract was politically driven. He responded to the reference made regarding Colorado stewardship lands, and stated compensation was made for those leases. He addressed the issue of opening Pandora's Box. He said that he wished that was true, the box was opened a long time ago. He refuted the State Forest Management Plan as a great document, because currently several people are suing because of it. He also contested the theory

that full market value will infringe on cattle grazing rights and cabin sights. He clarified that the department's interpretation of the bill does not change current operations of business. The bill clarifies that when the department is asked or required to defer various activities that there will be full market value paid in compensation. The DNRC holds full market value paramount when managing school trust lands, the bill is necessary because of the questions surrounding full market value. He also noted that there is currently a request in with Attorney General McGrath to overturn the issue of full market value. He closed by asking the committee to look into the issues surrounding Old Growth.

Questions from Committee Members and Responses:

SEN. MAX COLE asked **Mr. Clinch** the amount of funds generated by school trust lands. **Mr. Clinch** informed him that it was 65 million dollars. **SEN. COLE** inquired if all of that money went directly to schools. **Mr. Clinch** told him that the money is deposited into the general fund and then becomes earmarked dollars. **SEN. COLE** questioned how much revenue would be generated if the state used all of the state trust lands at full market value. **Mr. Clinch** said he did not have a specific number. **SEN. COLE** asked how much money was generated from Old Growth. **Mr. Clinch** informed the committee that if the current deferral was not in place the sustained yield would increase by approximately four million board feet, as compared to the average one million per year.

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SEN. GLENN ROUSH asked **Mr. Clinch** if the state had water rights on state trust lands. **Mr. Clinch** told the committee that the state has numerous water rights. Most of the water rights are used for irrigating crops. **SEN. ROUSH** asked if there was revenue generated from those water rights. **Mr. Clinch** stated that the revenue is derived from irrigated crops. **SEN. ROUSH** inquired if the state trust lands were obtaining full market value on rentals. **Mr. Clinch** told the committee yes, depending on circumstances surrounding the crop.

SEN. VICKI COCCHIARELLA asked **Mr. Clinch** how the age of a tree is determined without cutting it down. He informed her that age is determined by using a process called increment boring. **SEN. COCCHIARELLA** further inquired how Old Growth is determined and what are the set asides. **Mr. Clinch** stated that it is determined by a certain criteria. The DNRC tried to determine it by age, but there was a lot of opposition to that definition. Old Growth

is a very complex issue. **SEN. COCCHIARELLA** asked if there was a certain number of acres set aside. He told her that the department made a commitment to maintain 50% of the historical amount of Old Growth that exists on state lands. However, there is no law that says you must retain a certain amount of Old Growth.

SEN. COCCHIARELLA asked **Ms. Adams** if she used to work for DNRC. She replied that she was a former employee of DNRC, but today she is representing herself.

SEN. KEN TOOLE asked **Mr. Andes** to clarify the concept of foregone usage. **Mr. Andes** told the committee he supports all forgone activities, and declared that all activities must be fully evaluated and compensated. **SEN. TOOLE** asked if money from the state trust lands goes into the general fund, does it all go towards schools. **Mr. Andes** informed him that 95% is general fund and 5% goes to the permanent fund.

SEN. TOOLE asked **SEN. CRISMORE** what the full market value would be if we moved into preservation. **SEN. CRISMORE** stated that the need was to maximize the value of the land. **SEN. TOOLE** asked if he would like to evaluate it against the highest market value. **SEN. CRISMORE** stated that with state trust land, the need is to figure out the value and then pay that amount. **SEN. TOOLE** asked if one use precludes another use, how would that concept be applied. **SEN. CRISMORE** said to look at the market value of land then charge that. **SEN. TOOLE** asked if the bill only applied to preservation uses. **SEN. CRISMORE** said he would like it to include everything.

SEN. TOOLE asked **Mr. Clinch** if they could get copies of other cases dealing with state trust lands. **Mr. Clinch** said he would gather the information.

VICE CHAIRMAN DALE MAHLUM asked **Mr. Brown** if he was aware of the pending lease agreement between Owen Sourwine and the DNRC because he had led the committee to believe that they were being closed down due to the unaffordable lease. **Mr. Brown** told the committee he was aware of the lease. **VICE CHAIRMAN MAHLUM** asked if an agreement for ten years at \$652 was something they could work with. **Mr. Brown** said it was something they could do.

Closing by Sponsor:

SEN. CRISMORE touched on several points brought up by the opposition. He stated that he was troubled by OPI coming in and testifying against the bill, and questioned if OPI was truly

satisfied with the 2% return on the value of the lands. He hypothesized that if that 2% was put into a permeant trust like coal, the revenue generated would be more than what is generated from managing. He charged that many things brought up during the hearing are not addressed in the bill. The bill recognizes that some tracks of land are not used for logging, but the full market value needs to be assessed as if those lands were logged. He told a personal story of logging land that he had owned, it was easy to identify the Old Growth trees because of the marks on them and the signs that they had withstood the fires of 1910. The purpose of the bill is to do what responsible citizens should do to manage state trust lands.

{Tape : 3; Side : B;}

HEARING ON SJ 3

Sponsor: SENATOR BEA MCCARTHY, SD 29, Anaconda

Proponents: Gail Abercrombie, MT Petroleum Association
Steve Gilbert, Northern Plains Resource Council
Don Allen, WETA
Patrick Heffernan, MLA
Jeff Barber, MWF, CFC, MCAFS
Steve Thompson, MT Conservation Voters
Janet Ellis, MT Audubon
Anne Hedges, MEIC

Opponents: none

Opening Statement by Sponsor:

SENATOR BEA MCCARTHY, SD 29, Anaconda, informed the committee that SJ 3 was a result of the interim subcommittee. It was a unanimous recommendation of the group that more time was needed to study MEPA issues. Many of the concerns by the public were not brought up until it was too late. This resolution would help to study those concerns further.

Proponents' Testimony:

Gail Abercrombie, MT Petroleum Association, told the committee that their chairman participated in the interim study. She stated that there are still numerous issues that need to be dealt with.

Steve Gilbert, Northern Plains Resource Council, spoke in favor of the bill. He commented that the interim study did a good job

of studying MEPA issues. He urged the committee to give the EQC more time to study environmental concerns.

Don Allen, WETA, told the committee that WETA participated in the study, in September of 1999 they gathered comments and concerns about the MEPA process. Members felt that the issues identified during the study needed to be addressed during this legislative session. He stated that it is important to redefine what is necessary to study. He closed by stating that this is not a substitute for the passage of current legislation.

Patrick Heffernan, MLA, commented that the MLA participated in the study last time and that they would be happy to participate again.

Jeff Barber, MWF, CFC, MCAFS, pronounced that there needs to be added language to the resolution. He told the committee that he hoped this bill passed so they could do an in-depth study of pending issues.

Steve Thompson, MT Conservation Voters, claimed that the interim study produced a good bipartisan report. He felt the report was the best avenue for added changes to MEPA.

Janet Ellis, MT Audubon, told the committee that the Audubon participated in the study and they would like to participate in the next one.

Anne Hedges, MEIC, told the committee she supported the bill and thought this provided for a good process.

Closing by Sponsor:

SEN. MCCARTHY closed by informing the committee that if this bill passed there is no need to change the language.

HEARING ON SJ 13

Sponsor: SENATOR WILLIAM CRISMORE, SD 41, Libby

Proponents: Cary Hegreberg, MT Wood Products Association
Patrick Heffernan, MLA
Ronald Buentemeier, F.N. Stoltze Land & Labor Co.
Ed Regan, RY Timber

Opponents: Steve Thompson, Self

Opening Statement by Sponsor:

SENATOR WILLIAM CRISMORE, SD 41, Libby, informed the committee that there is a conflict between Idaho and Montana timber sales. He charged that Montana needs to get the full market value for its timber, the resolution would ask Idaho to treat Montana the same way that Montana treats them. Idaho has a formula that gives the advantage to Idaho businesses. However, if they come over to Montana and they are the highest bidder they get the timber. Idaho needs to treat Montana fair or Montana will have to create a law to treat them in the same manner. This resolution is aimed at creating a level playing field.

Proponents' Testimony:

Cary Hegreberg, MT Wood Products Association, told the committee that the legislature needs to help settle the trade dispute between Idaho and Montana. He pleaded with the committee to create a level playing field. **Mr. Hegreberg** handed out a copy of the Idaho Statutes to explain the problem **EXHIBIT (nas37a18)**.

Patrick Heffernan, MLA, informed the committee that he has had several conversations with MLA members who want this problem solved. It is in the best interest of their members to solve this problem.

Ronald Buentemeier, F.N. Stoltze Land & Labor Co., stated that he supports the competitive bidding process.

Ed Regan, RY Timber, stated that they support the bidding process and desire a level playing field.

Opponents' Testimony:

Steve Thompson, Self, pointed out that state lands are held in trust for the good of the state. He told the committee that creating a similar law for Montana would be in the state's best interest. Creating this law would create a level playing field and a fair bidding process. He charged that he disagreed with the idea that if Idaho is doing something unconstitutional, then Montana needs to be doing something unconstitutional.

Questions from Committee Members and Responses:

SEN. MCCARTHY asked **SEN. CRISMORE** if he would like to do what **Mr. Thompson** suggested and not allow Montana lumber to be sold out of state. **SEN. CRISMORE** said no.

SEN. TOOLE asked if **SEN. CRISMORE** was aware of the controversy surrounding in-state bidding preference. **SEN. CRISMORE** said that yes he was aware of the controversy. **SEN. TOOLE** asked if **SEN.**

CRISMORE thought this resolution would put pressure on Idaho.

SEN. CRISMORE said he hoped it would.

Closing by Sponsor:

SEN. CRISMORE told the committee that in 1995 there was an amendment that stated, "as specified in the enabling act". He clarified by telling the committee that the amendment did not address what was being discussed today. He stated that the hope of the resolution was to have Idaho resend their laws about timber.

EXECUTIVE ACTION ON SJ 3

Motion/Vote: **SEN. MCCARTHY** moved that **SJ 3 BE ADOPTED**. Motion carried 8-0.

EXECUTIVE ACTION ON SB 364

Motion/Vote: **SEN. MIKE TAYLOR** moved **SB 364 DO PASS**. Motion carried 10-0.

EXECUTIVE ACTION ON SB 378

Motion: **SEN. BILL TASH** moved that **SB 378 DO PASS**.

Discussion: **SEN. MCCARTHY** pointed out that **SEN. LORENTS GROSFIELD** had amendments to the bill and suggested the committee hold off on executive action until he could explain them.

SEN. TASH withdrew his motion

EXECUTIVE ACTION ON SJ 13

Motion: **SEN. COCCHIARELLA** moved that **SJ 13 BE ADOPTED**.

Substitute Motion: **SEN. COCCHIARELLA** made a substitute motion to **AMEND SJ 13**.

Discussion: **SEN. COCCHIARELLA** told the committee that on page one line fifteen she would like to strike the words "and possibly unconstitutional". She felt the language appeared to inflammatory. **VICE CHAIRMAN MAHLUM** asked **SEN. CRISMORE** if that would be okay. He said that it would be fine. **SEN. TAYLOR**

questioned if it changed the concept of the bill. **SEN. MCCARTHY** asked if the committee should change the words discriminatory as well. The committee felt that language was appropriate for what the resolution was trying to accomplish.

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Substitute Motion/Vote: **SEN. COCCHIARELLA** made a substitute motion that **SJ 13 AMENDMENT BE ADOPTED. Substitute motion carried 9-0.**

Motion: **SEN. COCCHIARELLA** moved that **SJ 13 BE ADOPTED AS AMENDED.**

Discussion: **SEN. TOOLE** expressed his concerns regarding the confronting nature of the bill. **SEN. COCCHIARELLA** responded to his concerns by informing him that it was a form of reciprocity.

Motion/Vote: **SEN. COCCHIARELLA** moved that **SJ 13 BE ADOPTED AS AMENDED. Motion carried 8-0.**

EXECUTIVE ACTION ON SB 379

Motion: **SEN. TASH** moved that **SB 379 DO PASS.**

Discussion: **SEN. TASH** proposed amendments SB037902.amv **EXHIBIT (nas37a19).** He said the purpose of the amendments was to clarify the bill.

Substitute Motion/Vote: **SEN. TASH** made a substitute motion that **AMENDMENTS SB037902.AMV DO PASS. Substitute motion carried 10-0.**

Substitute Motion/Vote: **SEN. TOOLE** made a substitute motion that **AMENDMENT 1 OF SB037903.AMV DO PASS.**

Discussion: **SEN. TASH** argued that the amendments SB037902.amv **EXHIBIT (nas37a20)** were redundant and unnecessary. **SEN. GROSFIELD** asked **SEN. TOOLE** if specific DMP's was referring to specific ones in the book or developing specific ones. **SEN. TOOLE** stated that the intent was to make certain ones.

Substitute Motion/Vote: **SEN. TOOLE** made a substitute motion that **AMENDMENT 1 OF SB037903.AMV DO PASS. Substitute motion failed 1-9 with TOOLE voting aye.**

Substitute Motion: **SEN. TOOLE** made a substitute motion that **AMENDMENT 2 OF SB037903.AMV DO PASS.**

Discussion: SEN. TASH argued that the second set of amendments were repetitive as well. SEN. COCCHIARELLA asked SEN. TOOLE where the list of approved construction activities were. SEN. TOOLE stated that there has been a lot of work done. SEN. COCCHIARELLA referred her question to Ms. Vandenbosch, she said she did not know the exact answer and re-referred the question to Michael Kakuk, MT Contractors Association. Mr Kakuk told the committee that the DEQ does have specific best management practices that apply to construction activities that apply to erosion. SEN. TOOLE said the intent of his amendment was to provide a standard for these types of construction practices. SEN. TASH told the committee that best management practices are already approved under a general permit. SEN. TAYLOR called for the question.

Substitute Motion/Vote: SEN. TOOLE made a substitute motion that AMENDMENT 2 OF SB037903.AMV DO PASS. Substitute motion failed 1-9 with Toole voting aye.

Motion/Vote: SEN. TASH moved that SB 379 DO PASS AS AMENDED. Motion carried 9-1 with Toole voting no.

EXECUTIVE ACTION ON SB 378

Motion: SEN. TASH moved that SB 378 DO PASS.

Discussion: Ms. Vandenbosch explained the amendments SB037801.amv **EXHIBIT** (nas37a21) proposed by SEN. GROSFIELD.

Substitute Motion: SEN. GROSFIELD made a substitute motion that AMENDMENTS SB037801.AMV DO PASS.

Discussion: SEN. GROSFIELD explained that the amendments do what was discussed in committee. SEN. MCCARTHY called for the question.

Substitute Motion/Vote: SEN. GROSFIELD made a substitute motion that AMENDMENTS SB037801.AMV DO PASS. Substitute motion carried 11-0.

Motion/Vote: SEN. TASH moved that SB 378 DO PASS AS AMENDED. Motion carried 11-0.

EXECUTIVE ACTION ON SB 364

SEN. GROSFIELD explained to the committee that he was out of the room when executive action was taken on SB 364; he asked if the committee could reconsider their action due to pending amendments.

Motion/Vote: SEN. GROSFIELD moved SB 364 BE RECONSIDERED. Motion carried 10-0.

The following testimonies were handed in at the end of the hearing:

Richard Harris, University of Montana, submitted written testimony in opposition of SB 354 **EXHIBIT(nas37a22)**.

ADJOURNMENT

Adjournment: 6:30 P.M.

SEN. WILLIAM CRISMORE, Chairman

Melissa Rasmussen, Secretary

WC/MR

EXHIBIT (nas37aad)